

CLAIM OBJECTIONS

Claim 3 is objected to because of informalities. Claim 3 has been amended to correct the informalities.

Claim 5 is objected to because of informalities. Claim 3 has been amended to correct the informalities.

Applicants request the objections to Claims 3 and 5 be removed.

CLAIM REJECTIONSU.S.C. 112

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps. The rejection is respectfully traversed for the following rational.

Claim 1 has been amended to include the limitations “accessing a first angle,” and “accessing a second angle.” Applicants respectfully assert that Claim 1 is not incomplete. Applicants request the rejection to Claim 1 be removed.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed for the following rational.

Support for the term “geometric calculation” can be found starting on page 19, line 1. It is defined as “determine a number of additional prices such that the total number of prices equals the number of prices provided in step 502.

Support for the term “geometric error” can be found starting on page 19, line 1. It is defined as “geometric error is the amount by which a geometric intersection of lines deviates from zero units (i.e., the x-axis) which is indicated as number of units of deviation.”

For this rational, Applicants respectfully request the rejections to Claim 5 be removed.

Claims 6, 12, 14, 15 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed for the following rational.

The vertical reference line can be any vertical line in accordance with embodiments of the present invention as described in the specification. The additional price that corresponds to the intersection can be any additional price in accordance with embodiments of the invention described in the specification.

The antecedent basis for the term “said step” in Claim 12 can be found in Claim 11, line 5.

The antecedent basis for the term “said step” in Claim 18 can be found in Claim 16, line 5.

Claim 15 has been amended to include the proper antecedent basis for the term “said y-axis.”

Applicants request the 112 rejections to Claims 6, 12, 14, 15 and 18 be removed.

Claims 7 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

HP-10013656-1	- 22 -	Serial No.: 10/038,344
Examiner: Erb		Group Art Unit: 3639

matter which applicant regards as the invention. The rejection is respectfully traversed for the following rational.

The term “reference line” is described in the specification in many locations. The reference line claimed in Claims 7 and 13 can be any reference line in accordance with embodiments of the present invention described in the specification. Applicants request the 112 rejections to Claims 7 and 13 be removed.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed for the following rational.

Support for the term “geometric calculation” can be found starting on page 19, line 1. It is defined as “determine a number of additional prices such that the total number of prices equals the number of prices provided in step 502.

Support for the term “geometric error” can be found starting on page 19, line 1. It is defined as “geometric error is the amount by which a geometric intersection of lines deviates from zero units (i.e., the x-axis) which is indicated as number of units of deviation.”

Claim 8 has been amended to include proper antecedent basis for the terms “budget” and “steps.” Applicants request the 112 rejections of Claim 9 be removed.

Claims 11, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed for the following rational.

Support for the term “geometric calculation” can be found starting on page 19, line 1. It is defined as “determine a number of additional prices such that the total number of prices equals the number of prices provided in step 502.

Support for the term “geometric error” can be found starting on page 19, line 1. It is defined as “geometric error is the amount by which a geometric intersection of lines deviates from zero units (i.e., the x-axis) which is indicated as number of units of deviation.”

Applicants request the 112 rejections of Claims 11, 16 and 17 be removed.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed for the following rational.

The term “reference line” is described in the specification in many locations. The reference line claimed in Claim 19 can be any reference line in accordance with embodiments of the present invention described in the specification. Claim 19 has been amended to include proper antecedent basis for the terms “second reference line” and “tangent line.”

Applicants request the 112 rejections to Claim 19 be removed.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed for the following rational.

Claim 20 has been amended to include proper antecedent basis for the terms “vertical reference line” and “y-axis.” Applicants request the 112 rejections to Claim 20 be removed.

U.S.C. 101

Claims 1, 5 and 8-15 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter. These rejections are traversed for the following rational.

Claims 1, 5 and 8-15 are directed to statutory subject matter under 35 U.S.C. 101. The language of 35 U.S.C. 101 clearly states "Whoever invents or discovers ***any new and useful*** process, machine, manufacture, or composition of matter.... may obtain a patent thereof..." (emphasis added). There is no requirement that the claims be limited by language within the technological arts in 35 U.S.C. 101. The Supreme Court has acknowledged that Congress, through legislative history, intended statutory subject matter to "include everything under the sun that is made by man." See Diamond v. Chakrabarty, 447 U.S. 303, 309; 206 USPQ 193, 197 (1980). Further, the Supreme Court has specifically identified three categories of non-statutory subject matter: laws of nature, natural phenomena, and abstract ideas. See Diamond v. Diehr, 450 U.S. 175; 209 USPQ 1 (1981).

It is submitted that Claims 1, 5 and 8-15 are not directed towards laws of nature, natural phenomena, and abstract ideas. Since the Office Action does not state that Claims 1, 5, and 8-15 are not directed towards laws of nature, natural phenomena, and abstract ideas, Claims 1, 5, and 8-15 are directed towards statutory subject matter. Applicants request the 101 rejections of Claims 1, 5, and 8-15 be removed.

Claims 8-10 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The rejection is traversed for the following rational.

On page 28, the specification states (emphasis added):

Referring to step 806, the initial price or p_0 for each demand curve is set to be proportional to the cost of the product. More particularly, in the present embodiment, the cost associated with each product is multiplied by the multiplier provided in step 803 to determine an initial price p_0 for each product. As shown by step 806, the initial price p_0 is determined. In the embodiment shown in Figure 9A, the initial price p_0 is the cost c_i multiplied by the multiplier λ .

Additional prices are then determined that maximize revenue as shown by step 807. More particularly, for each demand curve provided in step 801, prices are determined (with the number being equal to the number provided in step 802) that maximize revenue. In the present embodiment, the steps of methods 300, 500 or 600 are performed to determine prices that maximize revenue by finding the optimal p_1 for each demand curve under the chosen p_0 . More particularly, when one additional price is to be determined method 300 is used and when two or more additional prices are to be determined methods 500 or 600 are used to determine the additional prices. This is done for each demand curve provided in step 801. Because the initial price p_0 is set in step 806, the number of additional prices to be determined is the number of prices input in step 802 less one. In the embodiment shown in Figure 9, the number of prices to be determined (input in step 802) is five, giving a number of additional prices to be determined of four.

As such, Claims 8-10 are operative because prices for each product that maximize revenue are determined for a number of products. Accordingly, Applicants request the 101 rejections of Claims 8-10 be removed.

U.S.C. 103

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992. The rejection is traversed for the following rational.

Applicants assert that Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992 fails to teach or suggest “changing said price and accessing said first angle, accessing said second angle, and determining whether said first angle is equal to said second angle until a price is found at which said first angle is equal to said second angle,” as claimed. As such, Claims 1-4 are patentable over Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992. Applicants request the 103 rejections to Claims 1-4 be removed.

Claims 5-7 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992. The rejection is traversed for the following rational.

Applicants assert that Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992 fails to teach or suggest “changing said price and accessing said first angle, accessing said second angle, and determining

whether said first angle is equal to said second angle until a price is found at which said first angle is equal to said second angle,” as claimed. As such, Claims 5-7 and 11-15 are patentable over Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992. Applicants request the 103 rejections to Claims 5-7 and 11-15 be removed.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992. The rejection is traversed for the following rational.

Applicants assert that Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992 fails to teach or suggest “performing a geometric calculation using a first price and using said demand curve so as to determine a plurality of additional prices; determining geometric error associated with said first price and said additional prices; changing said first price when said first price does not minimize said geometric error; and performing said geometric calculation, determining said geometric error and changing said first price until a first price and additional prices are found that minimize said geometric error,” as claimed.

As such, Claims 16-20 are patentable over Thomas Jr., George B., and Finney, Ross L., Calculus and Analytic Geometry, 8th Edition, Addison-Wesley Publishing Company, New York, 1992. Applicants request the 103 rejections to

Claims 16-20 be removed.

CONCLUSION


In light of the above remarks, Applicant respectfully requests reconsideration of the rejected Claims.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO L.L.P.

Dated: 3/15/, 2006



John P. Wagner, Jr.
Registration No. 35,398

WESTRIDGE BUSINESS PARK
123 WESTRIDGE DRIVE
WATSONVILLE, CALIFORNIA 95076

(408) 938-9060